

TITLE IX POLICY

08/20, 02/22, 09/22, 01/24

POLICY:

Title IX is a federal civil rights law passed as part of the Education Amendments of 1972. This law protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that: “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Bellin College is only responsible for responding to conduct that occurs within its education program or activity. This policy does not apply to off-campus, private settings, which are not an education program or activity of Bellin College. The policy and grievance procedures do not apply to college community members outside of the United States.

Title IX applies to any institution receiving federal financial assistance from the Department of Education, including state and local educational agencies. Educational programs and activities that receive federal funds from the Department of Education must operate in a nondiscriminatory manner. Also, a recipient may not retaliate against any person for opposing an unlawful educational practice or policy, or because a person made charges, testified, or participated in any complaint action under Title IX.

The Title IX Final Regulations have been released on May 6, 2020. Bellin College continues to have a responsibility under Title IX to protect students’ rights to equal education in an environment free from sexual harassment and discrimination based on sex. Relative to the latest guidance and regulations, Bellin College has implemented the processes needed to achieve compliance with regulations issued by the Department of Education.

Bellin College’s policies and procedures are intended to afford a prompt response to reports of sexual misconduct, to maintain confidentiality and fairness consistent with applicable legal requirements, and to impose appropriate sanctions on violators of College policy. Bellin College promptly and thoroughly investigates and resolves complaints alleging sexual harassment, including sexual violence, and/or sexual discrimination. Bellin College offers resources and support to all College community members experiencing concerns. We encourage you to make us aware of these concerns so that we can offer support and resources to you and/or those involved.

It is the policy of the College to provide equal employment and educational opportunities to students, faculty, staff, and applicants without regard to race, color, religion, sex, marital status, national origin, age, disability, gender identity, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes. In addition, it is the policy of the College to comply with applicable state statutes and local ordinances governing nondiscrimination in employment and educational activities.

Acts of sexual harassment, sexual violence and/or discrimination based on sex are considered serious violations of this College policy. Because of the seriousness of these actions, the full

range of institutional sanctions, including probation, termination, suspension, and dismissal may be imposed.

A College community member who believes themselves to be victim of sexual misconduct is encouraged to report the information in writing to the Title IX Coordinator. The College requires all Bellin College employees who receive information about sexual misconduct involving any college student, faculty, or staff member to report the incident to the Title IX Coordinator. The only exceptions for this are the individuals who provide confidential help, as listed below.

All student workers are considered mandatory reporters **WHEN ON THE CLOCK**. If a student worker becomes aware of information or an incident of sex discrimination/misconduct while acting in the capacity of their employment, a report must be made.

The College will broadly disseminate this policy and distribute a list of resources available to respond to concerns of sexual harassment, sexual violence and/or sexual discrimination. Additionally, students and employees will participate in appropriate educational programs on Title IX as a federal law, prevention, and violations of Title IX.

Additionally, this policy applies to all terms and conditions of employment including, but not limited to, hiring, placement, benefits, promotion, termination, layoff, recall, transfer, leaves of absence, compensation, and training.

SCOPE:

This policy applies to all College community members. Vendors, independent contractors, and other outside parties who conduct business with the College through affiliation and other agreements will be expected to comply with this policy as well, as specified by the terms of any contract or agreement between the College and such third party.

PURPOSE:

Bellin College believes that each individual should be treated with respect and dignity and that any form of sexual harassment and/or discrimination based on sex is a violation of human dignity. Students, faculty, and staff have the right to work and learn free of sexual harassment and discrimination. The College maintains a “zero-tolerance” for misconduct based on sex and will take all reasonable efforts to prevent and promptly correct instances of Title IX violations. Additionally, students, faculty, and staff have the right to a structured process for resolution of their concerns.

Bellin College’s purpose is:

- To communicate the mechanisms for investigating complaints in a manner that reasonably protects the privacy of individuals involved in situations of alleged sexual harassment, including sexual violence and/or discrimination based on sex.
- To ensure the provision of equal employment and educational opportunities to faculty, staff, students and applicants for such opportunities without regard to race, ethnicity, religion, sex, marital status, national origin, age, disability, gender identity, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes.

- To protect all those involved who report or provide information related to Title IX violations from retaliation of any kind.
- To set forth guidance for preventing sexual harassment, including sexual violence and/or discrimination based on sex.
- To take timely action when sexual misconduct is alleged to have occurred.
- To establish a consistent process for resolving complaints of Title IX violations in a fair and just manner.

DEFINITIONS:

Actual knowledge and applicability: Bellin College is only responsible for investigating "formal complaints, which are defined as a complaint made to an "official with authority" to institute corrective measures on the recipient's behalf such as the Title IX Coordinator.

Advisor and their role: Parties must have the same opportunity to select an advisor, who may be an attorney. At the live hearing, an advisor is assigned, without fee, to any party that does not have one during the live hearing. The college must allow both parties the opportunity to select an advisor, without restriction on who the advisor may be to interviews and meetings. The college retains the ability to limit the role of the advisor in interviews and meetings as long as it does so equally for both parties. It cannot, however, limit the advisor's role in cross-examining the other party and witnesses at the hearing.

An individual **may** select any person to be an advisor, including but not limited to: Another student or employee not involved in the complaint. A parent or family member. A member of the faculty or administration not involved in the complaint. Advisors are not necessarily attorneys.

Alternative resolution: An alternative resolution is permissible only after a formal complaint is filed. The complaint form must be filled out and emailed or given to the Title IX Coordinator. The form can be found on the Bellin College website or in the Title IX Coordinator Office. Bellin College is allowed to offer and facilitate Alternative Resolution options, such as mediation, as long as both parties give voluntary, informed and written consent. The college is not allowed to offer or facilitate an Alternative Resolution process if an employee is a respondent.

Burden of gathering evidence and burden of proof: Bellin College is responsible for gathering sufficient evidence to reach a decision. The burden of proof is not the responsibility of the complainant or respondent. Further, the college must not restrict the ability of either party to discuss the allegations or present relevant evidence. Institutions must provide equal opportunities for the parties to present facts, expert witnesses, and evidence. The college is prohibited from accessing a party's health, psychiatric or counseling records without written consent.

Complainant: An individual who is subject to alleged discrimination, harassment, retaliation, or unfair treatment regarding the interpretation or application of an existing college policy.

Confidentiality: The college cannot access, consider, disclose, or use medical, psychological, or similar privileged treatment records without the party's voluntary, written consent to do so. Also, the college cannot require restrictions regarding the ability of either party to discuss the allegations or gather relevant evidence. The college must keep confidential the identity of

individuals involved in a Title IX proceeding, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA), as required by law or as required to carry out a Title IX proceeding.

Conflict of Interest: In the formal resolution process, if a member of the investigative team or the appropriate College authority has an actual or perceived conflict of interest, the investigator appropriate College authority may be asked to excuse himself/herself from the process. The excused individual shall not have access to any of the materials from the case from which the individual is excused.

Dating Violence: Intimidation, harassment, physical abuse, sexual abuse, emotional abuse, or interference with the personal liberty of any person by someone in an intimate relationship. Violence by a person who is or has been in a social relationship of a romantic or intimate nature (serious, casual, monogamous, or not, short, or long-term) with the victim.

Decision-Maker(s): The decision-maker(s) conduct and adjudicate the grievance proceedings involving Title IX through a live hearing. This individual(s) evaluates the evidence, decides whether evidence is relevant and who reaches conclusions about whether the respondent is responsible for the alleged sexual harassment. Decision-maker(s) also determine whether remedies will be provided to complainants, and appropriate disciplinary sanctions for respondents, if any. After the proceedings, the decision-maker(s) issue written determinations regarding responsibility with findings of fact, conclusions, and rationale for the result. When an appeal occurs, a different decision-maker(s) will decide the appeal.

Decision-maker(s) can be a single individual or a panel of individuals, an outside contractor, or a consortium with no bias or conflict of interest who have appropriate and sufficient training to conduct the proceedings. The decision-maker(s) cannot be the Title IX coordinator or the same investigator(s) who worked the case.

Discrimination: Any distinction, preference, advantage for or detriment to an individual compared to others that is based upon an individual's actual or perceived race, color, religion, sex, marital status, national origin, age, disability, gender identity, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes. The conduct must be so egregious as to alter the conditions of the individual's employment or educational experience.

Discriminatory Harassment: Detrimental action based on an individual's actual or perceived race, color, religion, sex, marital status, national origin, age, disability, citizenship, sexual orientation, veteran status, and any other groups protected by federal, state or local statutes that is so severe, persistent or pervasive that it unreasonably interferes with or limits an individual's ability to participate in or benefit from the work or educational environment. Examples of harassment include, but are not limited to, intimidation and humiliation as expressed by communications, threats, acts of violence, hatred, abuse of authority, or ill-will that assault an individual's self-worth. Harassment of a non-sexual nature can include slurs, comments, rumors, jokes, innuendoes, cartoons, pranks and other verbal or physical conduct, frequent, derogatory remarks even if the remarks are not sexual in nature and any other conduct or behavior deemed inappropriate by Bellin College.

Domestic Violence: Violence by a current or former spouse of the victim, by a person with whom the victim shares a child in common, or by a person who is cohabitating with or has cohabitated with the victim.

False Information: Anyone interviewed as part of an investigation into a possible violation of this policy who intentionally furnished false information may be subject to corrective/disciplinary action.

False Reporting: The College encourages anyone who believes that s/he has been the victim of sexual violence, harassment, or discrimination to report her/his concerns but will not tolerate intentional false reporting of incidents.

FERPA (as related to Title IX): If there is conflict between FERPA and the Title IX regulations, the college must comply with the Title IX regulations.

Formal Complaint: A complaint made to an "official with authority" to institute corrective measures on the recipient's behalf. A formal complaint must be a written document filed by a complainant or signed by the Title IX Coordinator, alleging sexual harassment against a respondent, and requesting that the school investigate the allegations. The form can be found on the Bellin College website or in the Title IX Coordinator Office.

Hostile Environment: An occurrence where harassment is sufficiently serious to deny or alter the conditions of employment or the educational environment and create an abusive environment in which to work or study. The person alleging a hostile environment must show a pattern or practice of harassment against him or her; a single incident or isolated incidents generally will not be sufficient. In determining whether a reasonable person in the individual's circumstances would find the work or educational environment to be hostile, the totality of the circumstances must be considered.

Incapacitation Due to Alcohol and Drug Use: Incapacitated persons, whether male or female, as a result of alcohol or other drug consumption (voluntary and/or involuntary), or who are unconscious, unaware, asleep or otherwise physically helpless, are considered incapable of giving effective consent because they lack the ability to comprehend that the situation is sexual, and/or cannot rationally and reasonably understand the nature and extent (who, what, when, where, why and how) of that situation.

Live hearing: A formal complaint of sexual harassment would constitute a live hearing. The Title IX grievance procedure provides for a live hearing. At the hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those which challenge credibility. The decision-maker will determine whether the question is relevant and explain any decision to exclude a question as not relevant. Bellin College must create an audio or audiovisual recording or transcript of any live hearing. The college must provide parties with an equal opportunity to present facts, witnesses, and other evidence.

Location of incidents: Bellin College is only responsible for responding to conduct that occurs within its education program or activity. Bellin College's jurisdiction for Title IX incidents is limited to conduct that occurs within the college's education program or activity. If the college chooses to address off-campus incidents involving students, it will need to occur as part of the student conduct process rather than the Title IX process. The complainant will be required to be a participant or attempting to participate in the college's education program or activity for a formal complaint to be filed. The policy and grievance procedures do not apply to individuals outside of the United States.

Official with Authority (previously responsible employee): All faculty and all staff with supervisory or leadership responsibilities or responsibilities related to student welfare are required to report acts of discrimination, discriminatory harassment, sexual harassment, sexual violence, crimes, and concerning and/or disruptive student behaviors. These individuals have authority to institute corrective measures on the college's behalf. All additional staff and students are strongly encouraged to report concerning behaviors.

Presumption of innocence: Grievance procedures and written notice of the allegations must include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Record retention: Documentation related to the investigation, including any determinations, appeals, Alternative Resolution and training materials must be retained for a period of seven years. This documentation must also be made available to the complainant and respondent.

Respondent: An individual who has been reported (accused) to be the perpetrator of conduct that could constitute sexual harassment.

Retaliation: Intentional action taken by an individual or allied third party that harms a complainant, witness, reporter, or any other individual for filing or participating in a College investigation. The college expressly prohibits retaliation against any person who may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, because the individual is involved in a Title IX proceeding. Retaliation includes charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint for sex discrimination or sexual harassment.

Review of evidence: The college must send the evidence and draft investigative report to both parties and their advisors prior to the completion of the report. Each party must have at least 10 days to submit a written response before the investigative report is finalized.

Right to appeal: The college is required to offer both parties an equal right of appeal to a Title IX proceeding. Parties must appeal on at least one of the following grounds for appeal:

- Newly discovered evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome.

- Bias or conflict of interest against one or both parties that affected the outcome.
- Procedural irregularity that affected the outcome.

Roles and responsibilities: Designate separate individuals as the Title IX coordinator, investigator(s), and decision-maker(s). This forbids the "single investigator" or "investigator-only" models from Title IX grievance processes. Title IX personnel are required to be free from conflicts of interest or bias for or against complainants or respondents (see additional explanations above).

Mandatory reporters: All faculty and staff at Bellin College besides the Student Success Coordinator and the Academic Advisor are considered mandatory reporters for Title IX. This means that regardless of the position or status, all faculty and staff are required to disclose Title IX related information and/or incidents that came to their attention.

Facilitator: The Title IX team are made up of facilitators which consist of the Title IX Coordinator, Title IX advocates, and Title IX Coordinators who all help execute the Title IX policies and procedures.

Sanctions: The college may impose a range of sanctions such as probation, suspension, termination, or dismissal.

Sexual Discrimination: Sex discrimination involves treating someone (a student or employee) unfavorably because of that person's sex. Discrimination against an individual because of gender identity, including transgender status, or because of sexual orientation is discrimination.

Sexual Harassment: Misconduct on the basis of sex that satisfies one or more of the following conditions: Unwelcome conduct that a reasonable person would determine to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the school's education program or activity; sexual assault, as defined in the Clery Act, or dating violence, domestic violence or stalking as defined in the Violence Against Women Act (VAWA); a school employee conditioning education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo). Only one of the three conditions listed must be met for the conduct to be considered sexual harassment.

Sexual Violence: The United States Department of Education's Office of Civil Rights 2014, defines sexual violence as "physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. An individual's inability to consent to sexual activity may arise from use of drugs or alcohol or individual conditions including intellectual or other disability". Sexual violence includes rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties.

Stalking: A pattern of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

Standard of evidence: Bellin College will use the preponderance of the evidence standard and apply the same standard to all formal complaints of sexual harassment, including those involving employees or faculty members.

Standard for response: The Title IX Coordinator must promptly contact the complainant confidentially to discuss the process for filing a formal complaint and supportive measures. The Title IX Coordinator will respond to the complainant with the necessary information within three (3) business days. In the event of the Title IX Coordinator's absence the Deputy Coordinator is to be contacted.

Supportive Measures (replaces Interim measures): Once an institution has actual knowledge of potential harassment and a formal complaint has been filed, the College will take immediate steps to provide the complainant and respondent supportive measures. Bellin College is required to offer supportive measures such as class reassignments or noncontact orders. Supportive measures are designed to free, individualized services to restore or preserve equal access to education, protect safety or deter sexual harassment. It is non-punitive or disciplinary with respect to another student.

Title IX Coordinator: An employee designated by the college to coordinate its efforts to comply with Title IX responsibilities. The coordinator may also be an investigator. The Title IX coordinator's name and contact information on the college website, print materials and is available to applicants for admission and employment, students, parents, legal guardians, and employees. Any person may make a report to the Title IX coordinator by person, by mail, by phone, email, or other means. A complaint "may be made at any time". After hours, reports may be made via voicemail to the Title IX coordinator.

Training: Training of Title IX personnel must include training on the definition of sexual harassment, the scope of the school's education program or activity, how to conduct an investigation and grievance process (e.g., hearings, appeals, Alternative Resolution), how to serve impartially (i.e., without conflicts of interest or bias) and any technology used during a live hearing. These materials must be posted on the website or be made available for the public. The training provided must be free of "sex stereotypes" and must promote impartial investigations.

Written notice: The college must provide written notice to the parties that include sufficient details, such as the identities of the parties involved, if known, the specific section of the policy that was violated, the conduct allegedly constituting sexual harassment and the date and location of the alleged incident, if known. The college must also send written notices of any investigation interviews, meetings, or hearings.

PROCEDURE:

ALTERNATIVE RESOLUTION (IR) PROCESS:

1. To move forward with an Alternative Resolution process a Title IX Complaint Form must be filled out (link below). Once the form is filled out it must be submitted by email or in person to the Title IX Coordinator. Written notice will be provided to the parties that include sufficient details. The Title IX Coordinator may offer the parties the opportunity to become involved in an Alternative Resolution process. Likewise, either party (complainant or respondent) may petition the Title IX Coordinator in writing to offer an Alternative Resolution process to the other party. The Title IX Coordinator is the sole administrator who determines if an Alternative Resolution is appropriate given the allegations. <https://www.bellincollege.edu/campus-life/student-services/policies-and-procedures/title-ix/>.
2. The Title IX Coordinator and or facilitator will supervise the Alternative Resolution process. The facilitator will present the option of an Alternative Resolution and proposed terms to each Party independently and in writing. All related communication will go through the Title IX Coordinator. Participation in an Alternative Resolution is voluntary for all parties and requires full informed and written consent. If either party does not agree with the proposed terms, or is uninterested in engaging in negotiations, the party may ask to move to a formal resolutions process at any time before signing the Alternative Resolution Agreement.
3. The IR will be voluntary for both parties and each party must submit a written request to become involved in the IR. An Alternative Resolution cannot be offered if the complainant is a student and the respondent is an employee.
4. The IR will not require the parties to confront each other or even be present in the same room.
5. The parties may consult their advisor or have their advisor present at any time an IR meeting occurs.
6. Either party may withdraw, without penalty, from the IR up until a written resolution agreement is signed by both parties. If either party withdraws from the IR, the formal Title IX process will resume.
7. A signed resolution agreement is binding on both parties.
8. The facilitator(s) has the authority to end the resolution process if the facilitator(s) believes that one or both parties are not operating in good faith. If this happens, the formal grievance process will resume.
9. Both parties and the facilitator (s) will have an opportunity to offer proposals to become a part of the final outcome(s)/agreement. An IR agreement may include, but is not limited to, an admission of responsibility, an admission of false allegations, disciplinary/punitive sanctions, counseling, and involvement in an educational program.
10. The Facilitator(s) and both parties must all agree to the outcome(s) of the IR. In doing so the facilitator will write a binding agreement based upon the parties verbal agreement with the negotiated outcome(s). Separately, both parties will then be offered the opportunity to sign this IR agreement. If either party refuses to sign this agreement, the IR will be considered failed and the formal Title IX process will resume.

One-on-One Communication:

- It is appropriate to use face-to-face communication only when the individual seeking an Alternative Resolution does not feel threatened, there is no risk of physical harm and the individual seeking an Alternative Resolution believe the other person will be receptive.
- Email/written correspondence is the preferred method of communication and must go through the Title IX coordinator or facilitator. If the individual seeking an Alternative Resolution chooses to communicate face-to-face, they should also send an email summarizing the face-to-face interaction. Keep copies of any written communication. Communication should include:
 - A factual description of the incident(s) including a description of the unwelcome behavior, date, time, place, and the names of any witnesses.
 - A description of any consequences that the individual seeking an Alternative Resolution has experienced due to the unwelcome behavior.
 - A request for the unwelcome behavior to cease.
 - If the individual seeking an Alternative Resolution does not feel comfortable with the one-on-one communication or if the individual seeking an Alternative Resolution believes that the communication was not successful, the individual should consider other informal or formal procedures.

Third Party Assistance:

If an individual seeking an Alternative Resolution desires the assistance of a third party to attempt to resolve the situation informally, the individual seeking an Alternative Resolution may approach any one of the following resources:

- Title IX Coordinator
- Bellin College Security
- Bellin Human Resources (faculty and staff)
- The individual seeking an Alternative Resolution's supervisor or the supervisor's supervisor (faculty, staff & student employees).

All faculty, staff and students are strongly encouraged to report any actions or behaviors believed to be in violation of this policy. Allegations of sexual misconduct that come to the attention of faculty or staff with supervisory or leadership responsibilities or responsibilities related to student welfare must be reported to the Title IX Coordinator.

If the situation is not able to be resolved informally or if the individual seeking an Alternative Resolution chooses not to engage in an Alternative Resolution, the individual seeking an Alternative Resolution may submit a formal complaint in writing to the Title IX Coordinator using the procedures below.

FORMAL RESOLUTION PROCESS:

In all cases of an allegation of sexual harassment, including sexual violence, and/or discrimination based on sex, the individual(s) making the allegation may choose to bypass the Alternative Resolution options and to proceed to a formal process. The Title IX Complaint Form can be used to report a concern of sexual misconduct located at:

<https://www.bellincollege.edu/campus-life/student-services/policies-and-procedures/title-ix/>.

Once the form is filled out it must be submitted by email or in person to the Title IX Coordinator. The Title IX regulations permit formal complaints that initiate the grievance process to be filed only by a complainant or the Title IX Coordinator. At the time of the complaint, the complainant must be participating in or attempting to participate in the college's education program or activity. Bellin College has the discretion not to initiate the Title IX grievance process for complaints made by former students or employees. The regulation does not prohibit parties from voluntarily waiving their rights to the grievance process required by the regulation. As a result, the college may create an alternative, streamlined investigation and adjudication process to be used only if the parties voluntarily consent to it and its use does not amount to deliberate indifference. Parties may voluntarily consent to Alternative Resolution in lieu of a formal investigation and hearing.

If at any point in the investigation, the college determines that the conduct alleged in the formal complaint does not constitute sexual harassment; did not occur in the college's education program or activity; or did not occur against a person in the US then the college must dismiss the complaint for its Title IX grievance procedure. The college has discretion to address such conduct under another policy, such as a student code of conduct, if it wishes to.

The college may dismiss a formal complaint at any time if the complainant would like to withdraw the complaint; the respondent is no longer enrolled or employed by the institution; or specific circumstances prevent the college from gathering evidence sufficient to reach a determination.

Bellin College will work to include reasonably prompt time frames for conclusion of the grievance process, including appeals and Alternative Resolutions, with allowance for short-term, good cause delays or extensions of the time frames. The college will describe the range of supportive measures available and sanctions the college may impose on a respondent, following determinations of responsibility. The college will treat complainants equitably by providing remedies at any time a respondent is found responsible and treat respondents equitably by not imposing disciplinary sanctions without following the grievance process.

TITLE IX GRIEVANCE PROCESS:

See the detailed Summary of Major Provisions of the Department of Education's Title IX Final Rule.

1. A formal written complaint shall set forth in reasonably sufficient detail the nature of the alleged sexual harassment (based on the definition) the respondent(s) against whom the complaint is made, the name(s) of any witnesses, and any available evidence or sources of evidence submitted to the Title IX Coordinator. The formal complaint can be filed by a complainant or signed by the Title IX Coordinator.
2. Upon receipt of a written complaint, the Title IX Coordinator shall first determine if the complaint states facts sufficient to believe that a potential violation of the Title IX sexual harassment or a potential violation of federal and/or state laws has occurred. The Title IX Coordinator will notify the complainant in writing of its decision within five working days. Allegations will be sent by a written notice to both parties. Supportive measures

will be put in place. If allegations do not meet the definition of sexual harassment or did not occur in the college's education program or activity against a person in the US, the allegations are dismissed.

3. If there is the potential of a violation of the Title IX Policy or federal and state laws, the Title IX investigator(s) will conduct a prompt, thorough, and impartial investigation. Privacy of a party's privileged record is not accessed unless written consent is obtained.
4. The college has the burden of gathering evidence and the burden of proof. The Title IX investigator(s) will objectively gather and consider relevant facts. The Title IX investigator(s) will ensure that statements of the complainant, the respondent, and all witnesses are documented and that the investigation is conducted in a thorough, objective manner and is considerate of all of the parties involved.
5. A live hearing and cross-examination are part of the grievance process. At the live hearing, the Decision-Maker(s) must permit each party's Advisor to ask the other party and any witnesses all relevant questions. Each party will have an equal opportunity to present facts, witnesses, and other evidence. The cross-examination must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally.
6. The investigation will normally be concluded within 30 working days. The complainant and respondent will be notified in writing of any reasonable delays.
7. There is no restriction of the ability of the parties to discuss the allegations or gather evidence (no "gag" orders). The investigation will be private and confidential to the greatest extent possible.
8. In all cases of formal allegations, the Title IX investigators will write an investigative report, including a summary of the complaint and the findings of the investigation, based on a preponderance of evidence.
9. The written investigative report shall be available for review by the complainant, the respondent, and to the appropriate College authority. Each party will have 10 days to review the draft investigation report and submit a response before the report is finalized.
10. In consultation with the appropriate College Administrators, the Decision-Maker will make a determination on the action(s), if any, to be taken.
11. The Decision-Maker will communicate the determination of action(s) to the complainant, to the respondent, and to the appropriate College personnel within five working days of conclusion of the investigation. The College will take immediate and corrective action as appropriate.

The Hearing:

When the complainant requests to file a formal complaint, or when the Title IX Coordinator files one on behalf of the institution, the Title IX Coordinator and Hearing Facilitator will coordinate the hearing for alleged violations of the Title IX Policy Discrimination Policy.

Once the investigation is complete and the investigative report is finalized, the college will schedule a hearing, giving each party at least ten (10) business days' notice of the hearing being scheduled.

College representatives will meet in a pre-hearing conference with the complainant and respondent to discuss their rights in the hearing, share about what will take place, and answer any

questions that participants may need answered. This meeting is called a pre-hearing conference, and will take place at least five (5) business days prior to the hearing. Parties may bring their support person and/or process advisor to this meeting.

Party Opening Statements:

The complainant and the respondent may submit opening statements for the hearing, which they will read at the start of the hearing.

Statements must not exceed three (3) typed pages of 1500 words if single-spaced. The complainant and respondent can decide what information should be included within their statements, but may choose to discuss the impact of the alleged incident or how involvement in this case has impacted them individually.

All documents must be submitted at least three (3) business days prior to the hearing; instructions for submitting will be provided during the pre-hearing conference.

Subjection to Questioning:

Parties are encouraged to participate in the hearing, but are not required to do so. Witnesses will also be invited to participate in live cross examination. Statements and other evidence provided during the investigation, along with statements during the hearing and cross-examination, may be considered for decision making by the Hearing Officer. The Hearing Officer will not draw an inference about the determination regarding responsibility based solely on a party or a witness's absence from the live hearing and/or refusal to submit to questioning by the parties' advisors.

Hearing Format:

At the hearing, the complainant and the respondent will be given space in separate areas to convene and prepare for the hearing before being called into the hearing room. Both parties will be able to see the Hearing Officer and hear/see one another. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.

An audio record will be kept of the proceedings and made available to each party for their audio review, at their written request. A copy of the audio recording is not available for dissemination or duplication.

The hearing may also take place fully virtually, if necessary, to allow for a timely response to the allegations.

An outline of the hearing format will be provided to parties at the pre-hearing meeting, but will generally utilize the following format:

- Opening instructions and introductions;
- Review of the Rights of the parties;
- Opening statements by Complainant and Respondent;

- Questioning of the Complainant:
 - By Hearing Officer;
 - By Process Advisor for Complainant
 - By Process Advisor for Respondent;
- Questioning of the Respondent:
 - By Hearing Officer;
 - By Process Advisor for Respondent;
 - By Process Advisor for Complainant;
- Questioning of Witnesses (Including Investigator):
 - By Hearing Officer;
 - By Process Advisor for Complainant and Respondent;
- Closing statements by Complainant and Respondent
- Closing instructions
- Deliberation and Decision-Making

Following conclusion of the decision-making process, the Hearing Officer, with administrative support from the Title IX Coordinator and/or other college administration will prepare a written decision that includes the following information:

- Identification of the allegations potentially constituting Sexual Misconduct made in the formal complaint;
- A description of the procedural steps taken by the college upon receipt of the formal complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the hearing.
- Findings of fact that support the determination;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Sexual Misconduct, including a determination regarding responsibility for each separate potential incident based on a standard of preponderance of evidence;
- Any sanctions to be imposed;
- Any ongoing supportive measures or other remedies as determined by the Title IX Coordinator; and
- A description of the process and grounds for appeal.

The Title IX Coordinator and/or designee will be responsible for sharing the findings of the Hearing Officer concurrently, through Bellin College email, with the complainant and respondent. Parties will be notified within five (5) business days about the outcome of the hearing. It is expected that everyone involved in the hearing process will follow all standards and expectations established for participants, as outlined in pre-hearing meetings.

Sanctions and Remedies:

If a complaint of Sexual Misconduct is found to be substantiated, the college will take appropriate corrective, disciplinary, and remedial action to stop the inappropriate conduct, address its effects, and prevent its recurrence. Students, faculty, and employees found to be in violation of this policy will be subject to discipline up to and including written reprimand,

suspension, probation, demotion, termination, or expulsion. Affiliates and program participants may be removed from college programs and/or prevented from returning to campus.

The college will impose appropriate sanctions on a case-by-case basis, depending on the severity and/or pervasiveness of any violations. In determining appropriate sanctions, the Hearing Officer may examine and consider a number of factors, including, but not limited, to:

1. Level of ongoing risk or harm to the community;
2. The nature and seriousness of the violation;
3. Use of drugs or alcohol;
4. Motivation underlying the respondent's behaviors; and
5. The Respondent's record of past misconduct, including prior violations of the same or similar type.

Sanctions will not be implemented until after the appeal deadline has passed or, if an appeal is filed, until after the appeal has concluded. However, the college will keep supportive measures in place until the decision is final and the Title IX Coordinator has notified parties that the supportive measures are no longer in place.

The following includes a list of the possible sanctions that may be imposed upon any respondent found to have violated the policy. The college has the authority to tailor sanctions, such as both punitive outcomes and educational outcomes, to address specific situations.

Possible sanctions include:

- Disciplinary Probation
- Suspension
- Expulsion
- Postponement of Graduation
- Withholding Proof of Degree
- Degree Recission g. Transcript Notation
- Prohibited Admission or Readmission
- Organizational Sanctions
- Counseling Referral
- Parental Notification
- Educational Outcomes, including training, discussion, and reflective opportunities
- Other Actions Designed to Avoid and Prevent Future Violations, including:
 - Limitations on co-curricular engagement, such as removal from a leadership position, or on-campus employment
 - Ongoing no-contact order

In the event that a respondent is suspended or expelled because of a finding of responsibility under this policy, a notation will appear on their transcript. A hold may be placed on a student's account until completion of necessary sanctions.

If a finding of responsibility occurs through any of these complaint resolution procedures, the complainant is entitled to ongoing remedies designed to preserve or restore equal access to the

college's education program or activity. The range of remedies available to a complainant include but are not limited to the supportive measures listed in the policy, but remedies are not required to be non-disciplinary or non-punitive and may burden a respondent.

APPEAL PROCESS:

1. The final regulation mandates that either party be allowed to appeal the determination, any dismissal of the complaint within 5 days of the determination, on the following grounds:
 - Procedural irregularity that affected the outcome
 - New evidence not reasonably available
 - Conflict of interest or bias by the college's participants what affect the outcome.
2. The non-appealing party must be notified of the appeal and allowed to submit a written statement in response.
3. The appeal Decision-Maker(s) cannot be the same as the hearing Decision-Maker(s). Nor can the appeal Decision-Makers(s) be the Title IX Coordinator or the investigator(s) who worked the case.
4. The appeal must conclude with a written decision by the appeal Decision-Maker describing the appeal and the rationale for the result that is provided to the parties simultaneously. The final determination will be made using a preponderance of evidence standard, within five working days after receiving the written appeal.
5. The final determination will be communicated in writing by the President to the individual
6. who submitted the appeal and shall be considered final.

Request for Postponement:

Postponements of deadlines or hearings shall not be granted except when extenuating circumstances exist, as defined in this section. Extenuating circumstances or situations, which preclude the complainant or respondent from meeting the deadline or attending the hearing, are very limited. Examples of extenuating circumstances include either party suffering from an incapacitating medical condition or emergency, supported by a physician's note, or a death in the party's immediate family.

The unavailability of process advisors or a support person is not a reason for postponement. The complainant and respondent are expected to modify their personal calendars to meet the deadlines and hearing dates.

Some instances of Sexual Misconduct may also constitute criminal conduct. In the case where alleged criminal conduct has also been reported to law enforcement, the college may temporarily delay its investigation of the complaint where necessary to avoid interfering with law enforcement. However, the pendency of a criminal investigation does not serve as a substitute for these procedures and the investigation and resolution process will commence promptly once interference is no longer a concern.

In addition, because the standard of proof that applies in these procedures (i.e., preponderance of the evidence) is different than the standard necessary for a criminal conviction (i.e., proof

beyond a reasonable doubt), the college's determination will not be held in abeyance due to the pendency of a criminal trial.

Annual Report: The Title IX Coordinator shall provide a statement documenting the number of complaints received pursuant to this policy, the categories of those involved in the allegations, the number of violations found, and examples of sanctions/corrective actions imposed for policy violations that is in conjunction with the College's Annual Security Report.

Administrative Review: In the absence of a formal complaint, the President's Cabinet has the authority to initiate an administrative review at the request of a department, program, or area when in the requested by a supervisor when in the judgment of the President's Cabinet a review is necessary. As necessary the College reserves the right to serve as complainant and to initiate an investigation without a formal complaint. The College encourages any member of the College community who feels he or she has been subjected to sexual misconduct to use the complaint procedure outlined in this policy. Additionally, an individual has the right to file a complaint with outside enforcement agencies including the United States Department of Education's Office of Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), or state or local law enforcement or prosecution authorities.

Respondent Takes Leave, Fails to Cooperate:

In the event that the respondent decides to take an informal or formal leave from the college prior to, during, or preceding the hearings and before an outcome is delivered, the following may be put into effect:

- Investigation will continue with the opportunity granted for the respondent to participate, with a notation made on the student's transcript, indicating that the hearing is in process, or indicating any findings of responsibility (as founded)
- Respondent may not be able to re-enroll without the authorization of the Title IX Coordinator; and/or
- Formal complaint may be dismissed.

Process Advisors:

Bellin College provides access to an individual (typically, a staff or faculty member) trained as a process advisor for both the complainant and respondent. The advisor will be available to accompany each student during all investigative meetings, hearings, and other meetings related to the complaint. Neither party is obligated to work with a process advisor provided by the college. Either party can elect to have an individual of their choosing serve as a process advisor.

The process advisor may assist the complainant or the respondent in preparing for the hearing and in navigating the related processes, and will conduct cross examination on all parties who make statements during the hearing. Process advisors provided by the college have no legal training or knowledge and are not attorneys; they do not advocate or speak on behalf of the parties. At the request of a party, a process advisor will be made available within two (2) business days after an initial request for a process advisor is initiated by the complainant or respondent.

If a complainant or respondent does not provide their own advisor at a hearing, the college will provide an advisor. Students cannot participate in the hearing without an advisor present.

Hearing Officers:

Because of the unique and sensitive nature of these matters, these cases are heard by a specially trained Hearing Officer. The Hearing Officer may be a Bellin College staff/faculty or an externally hired expert, and is trained and provided by the Title IX Coordinator. Training for Hearing Officers may include: knowledge of Title IX and other sexual/gender based discrimination and harassment, the college policy and procedures, trauma-responsive practices, determining relevance of evidence presented, and other relevant topics.

The complainant and respondent will each have the opportunity to challenge a Hearing Officer on the basis of any perceived or actual bias. The Hearing Facilitator and Title IX Coordinator will discuss with the parties their reasons for opposition to a specific Hearing Officer if bias concerns are raised, and will make a determination on the perceived bias.

The college is committed to ensuring that its resolution processes are free from actual or perceived bias or conflicts of interest that would materially impact the outcome.

Dismissal of a Formal Complaint:

If a preliminary assessment of the formal complaint determines that the conduct at issue falls outside of the scope of Section VII A. (Title IX), it will be dismissed from Section VII A. and addressed according to Section VII B. (Other Prohibited Conduct).

Formal Complaints will fall outside Title IX Sexual Harassment, Sexual Misconduct, and must be dismissed when:

- The conduct does not constitute Sexual Harassment or sexual misconduct or discrimination
- The conduct did not occur in the college's education program or activity;
- Student exists the institution during the process
- The conduct did not occur against a person within the United States; and/or
- The complainant was not participating or attempting to participate in the college's program at the time of the complaint.

AMENDMENTS OR TERMINATION OF THIS POLICY:

Amendments to this policy were implemented August 2020 in compliance with the May 6, 2020 Final Title IX Regulations issued by the Department of Education. Bellin College reserves the right to modify, amend, or terminate this policy at any time.

TITLE IX TEAM:

Director of Student Affairs & DEI – Title IX Coordinator
Student Success Coordinator – Confidential Help - Facilitator
Academic Advisor – Confidential Help – Facilitator
Campus Safety & Security Coordinator – Facilitator
Advancement and Alumni Relations Coordinator – Facilitator